

Attorney's Docket: 2003CH109
Serial No.: 10/552,603
Group: 1796

REMARKS

The Office Action mailed May 1, 2008, has been carefully considered together with each of the references cited therein. The amendments and remarks presented herein are believed to be fully responsive to the Office Action. The amendments made herein are fully supported by the Application as originally filed. No new matter has been added. Accordingly, reconsideration of the present Application in view of the above amendments and following remarks is respectfully requested.

CLAIM STATUS

Claims 1-15 stand rejected under 35 USC § 103(a) as being unpatentable over Hess et al. (US 4,780,494) in view of Beilfuss et al. (5,756,500) and Takei et al. (US 6,444,320). This rejection is respectfully overcome.

As stated on Page 3, Paragraph 25 of Applicant's specification:

The object of the present invention was to improve the storage stability of highly concentrated aqueous dispersions of a light stabilizer or of a mixture of a light stabilizer and an antioxidant. (underlining added)

Applicant has amended its independent claim 1 to specifically clarify that the highly concentrated storage stabilizer aqueous dispersion contains an active substance content of 54 to 57% by weight. Basis for this amendment is found on Page 4, Paragraph 10 of Applicant's Specification.

The Office uses Hess to disclose a 2,2,6,6-tetraalkylpiperidine. The Office will kindly note in Column 5 of Hess et al. the following paragraph starting on line 15:

The amount of 2,2,6,6-tetraalkylpiperidine compounds in a dispersion according to this invention is preferably 5 to 50%, more preferably 15 to 40% by weight.

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Assuming, *arguendo*, the Office's position advanced in the previous Office Action dated October 25, 2007; that an ordinary artisan would be motivated to combine the cited references as advanced by the Office, the combination as proffered would still not arrive at the presently claimed invention.

Specifically, as Applicant has amended its claims to include a higher range of active substance, it is respectfully contended that the instant invention can not be made obvious by any combination of the cited references. Moreover, if one with ordinary skill in the art, versed in the knowledge of Hess et al., were to entertain the combination as advanced by the Office, the artisan would have an express disincentive to arrive the combination as is now claimed. Such disincentive arises because the amount of 2,2,6,6-tetraalkypiperidine in Hess et al. is 5% to 50%, but more importantly, is more preferably 15-40%. Please see Column 5, lines 15-18. This is in the opposing direction of a higher concentration as is now claimed by Applicant. Therefore, one with ordinary skill in the art entertaining the Office's combination would invariably have to abandon the express teachings of Hess et al. in order to arrive at the instantly claimed invention. It is axiomatic that a *prima facie* case of obviousness can not be made if one of ordinary skill in the art need abandon the express teachings of a reference to arrive at a claimed invention.

For at least this reason, it is respectfully contended that the rejection of claims 1-15 under 35 USC § 103(a) as being unpatentable over Hess et al. (US 4,780,494) in view of Beilfuss et al. (5,756,500) and Takei et al. (US 6,444,320) has been overcome. In view thereof, Applicant courteously solicits reconsideration and withdrawal of the rejection.

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In view of the forgoing remarks, the present Application is believed to be in condition for allowance, and reconsideration of it is requested. If the Office disagrees, the Examiner is invited to contact the attorney for Applicant at the telephone number provided below.

Respectfully submitted,



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